

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EDWARD EARL THOMAS,

Petitioner,

v.

COMMONWEALTH OF PA.,

Respondent.

Civil Action No. 04-343 Erie

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on November 30, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 5], filed on April 13, 2006, recommended that Petitioner's Petition [Doc. No. 1] be dismissed and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondent. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 3rd day of May, 2006;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 5] of Magistrate Judge Baxter, filed on April 13, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge